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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re D.S., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,
Plaintiff and Respondent,

v.

D.S.,
Defendant and Appellant.

E047234

(Super.Ct.No. J223131)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Knish,
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Nancy Olsen, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

On October 6, 2008, the District Attorney of San Bernardino County filed a three-
count amended juvenile wardship petition pursuant to Welfare and Institutions Code,

section 602. The petition alleged that minor came within violation of Penal Code section 211¹ (count 1), section 243.2, subdivision (a)(1) (count 2), and section 626.2 (count 3).

A jurisdictional hearing commenced on November 12, 2008, and on November 13, 2008, the juvenile court sustained the petition as to count 1 (robbery) and on motion of the district attorney, the court dismissed counts two and three pursuant to section 1385.

At a disposition hearing on December 1, 2008, minor was declared a ward of the court, placed in the custody of his parents, and ordered to comply with the terms and conditions of probation as listed by the probation officer.

A timely notice of appeal was filed on December 5, 2008.

STATEMENT OF FACTS

On June 11, 2008, at 7:45 p.m., three male teenagers entered a store at the Shell gas station located at 2886 North Del Rosa Avenue in San Bernardino and one of the teens grabbed a handful of beef jerky and left the store without paying for the merchandise. The store's owner, Mohammed Salik Ikram (victim) and an employee, Anthony Moreno, were both on duty and working at the time of the robbery.

The victim and Moreno both identified minor at the jurisdictional hearing as one of the three individuals who entered the store on June 11 but he was not the individual who took the beef jerky. The individual who took the jerky struck the victim in the face and it was minor who hit the victim on the left shoulder, causing the victim to fall to the

¹ All further statutory references are to the Penal Code unless otherwise indicated.

ground. The youths then ran from the store. The victim suffered a dislocated shoulder from the incident.

Moreno testified at the jurisdictional hearing that he had encountered minor, along with other unidentified youths, at the store on June 8, 9, and 10 and on each occasion the three youths shoplifted items from the store. Moreno asked the youths to “please not . . . come back to the store anymore.” When the three youths approached the store on June 11, Moreno alerted the victim that they were the same youths who shoplifted items from the store on previous occasions.

The victim approached the three youths and asked them why they were stealing his merchandise from the store and the three youths responded but the victim could not recall what they said. The three youths left the store when they realized the victim was calling the police.

Moreno testified that one of the youths involved in the robbery admitted shoplifting items from the store when the victim confronted the group. The youths didn’t appear to take the accusations seriously.

At the jurisdictional hearing, the victim identified minor as one of the three teenagers involved in the robbery, however, he had never seen minor or the other two individuals prior to the June 11 robbery. The victim also identified minor during an in-field identification on July 3, 2008. The victim and Moreno both testified that they saw the same individuals who robbed the store walk by the store on several occasions after the robbery.

On June 11, the police tried to talk to the victim about the robbery but the victim refused to cooperate. Later, on June 24, 2008, Officer Alejandro Garcia met with the victim and he provided a description of one of the robbery suspects as a dark complected male, wearing his hair in cornrows braided from the front to the back, and weighing about 140 pounds, which the victim believed matched minor's description.

It was stipulated that on June 11, 2008, Moreno provided a description of the suspects to Officer De La Vega but the officer's report does not include any reference to cornrows or braids.

At about 4:00 p.m. on July 3, 2008, Officer Garcia was on patrol near the victim's Shell station when he approached three black male youths walking in the vicinity of the station, one of whom matched the description of the robbery suspect provided by the victim.

When Officer Garcia detained the three youths, Moreno ran up to him, yelling, "That's them. They hit my boss." Garcia then handcuffed the youths and another officer conducted the infield lineup. Moreno identified minor and one other individual at the infield lineup.

Minor testified that he was probably at home on the evening of June 11, 2008, and denied any participation in the robbery. Minor further denied any confrontations with the victim or Moreno. Minor's parents purchase gas from the victim's shell station and minor had been to the store there on two prior occasions.

Minor's father testified that on June 11, 2008, he returned home from work sometime between 4:00 p.m. and 5:00 p.m. and he recalled minor was home between

7:00 and 8:00 p.m. that evening. Minor and his brother are not permitted to go outside at that time of night.

Minor's father further testified that he is a truck driver and knows the victim and Moreno personally. He never received any complaints that minor was harassing or taunting anyone at the Shell station.

Minor appealed, and upon his request this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493] setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to undertake a review of the entire record.

We offered minor an opportunity to file a personal supplemental brief, which he has not done.

We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P.J.

We concur:

RICHLI
J.

MILLER
J.